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UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION III
841 Chestnut Building
Philadelphia, Pennsylvania 19107

NOV 06 1994

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Mr. William Phelps, President
Buffalo Air Handling
Rural Route 3, Box #423
Amherst, VA 24521

Re: Buckingham County Landfill Superfund Site: "Special Notice" for Negotiations for Remedial Design & Remedial Action/Demand for Payment of Costs

Dear Mr. Phelps:

This letter relates to the liability of Buffalo Air Handling in connection with the Buckingham County Landfill Superfund Site ["Site"].

INTRODUCTION

The United States Environmental Protection Agency ["EPA" or "Agency"] has conducted and overseen activities undertaken at the Site in response to the release and/or threat of release of hazardous substances, pollutants, or contaminants into the environment. By letter dated September 28, 1990, EPA notified Buffalo Air Handling ["Buffalo"] of its potential liability for such response action pursuant to section 107 of the Comprehensive Environmental Response, Compensation, and Liability Act, as amended ["CERCLA"], 42 U.S.C. § 9607. EPA has selected remedial action for implementation at the Site, which remedial action is described in a document called a Record of Decision ["ROD"] issued by EPA on September 30, 1994, enclosed. EPA is now contacting you in an attempt to resolve Buffalo's liability with respect to the above-captioned matter. Toward that end, this letter contains:

1. A formal demand for reimbursement of costs that have been paid (including interest thereon) and that are to be paid (which are subject to interest) in conducting and/or overseeing response actions at the Site (Demand for Payment);
2. Notification that a limited period of formal negotiations for an agreement under which Buffalo will implement the requirements of the ROD begins with your receipt of this letter (Special Notice);
3. General and site-specific information to assist you in

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these negotiations; and

4. A proposed consent decree, and proposed administrative consent order, as described below.

As of October 27, 1994, EPA has paid costs in excess of \$771,570 for response activities related to the Site. Of that amount, approximately \$250,760 has been incurred as Remedial Investigation/Feasibility Study ("RI/FS") oversight costs which is being separately billed in accordance with the Administrative Order on Consent for RI/FS ("Order") [Docket# III-91-24]. With respect to costs not covered under the above mentioned Order, EPA demands that Buffalo reimburse the Agency for said past costs, approximately \$520,810. Failure to pay, or delay in payment, may subject Buffalo to liability for increased costs associated with these past costs including, but not limited to, interest and enforcement costs. Interest on amounts recoverable begins to accrue as of the date of receipt of this letter as provided by section 107(a) of CERCLA, 42 U.S.C. § 9607(a).

Although the above figure may not include all applicable costs incurred and paid to date, the figure represents EPA's most recent calculation. Furthermore, additional costs may continue to be incurred.

You may contact the following person to arrange for payment of the above-described costs:

Jim Heenehan
Assistant Regional Counsel (3RC32)
U.S. Environmental Protection Agency
841 Chestnut Building
Philadelphia, PA 19107
(215) 597-8916

DEMAND FOR PAYMENT

SPECIAL NOTICE NEGOTIATIONS MORATORIUM

EPA has determined that use of the "special notice" procedures specified in section 122 of CERCLA, 42 U.S.C. § 9622, will facilitate a settlement between EPA and Buffalo for implementation of this remedial action at the Site. Therefore, pursuant to that section, your receipt of this letter triggers a sixty (60) day moratorium on certain EPA response activities at the Site. During this sixty (60) day period, Buffalo is invited to submit a good faith proposal (defined below) to conduct and/or finance such remedial action and negotiate a consent decree (described below) under which Buffalo will perform such work. If EPA determines that such a good faith offer has been timely received, the Agency will provide an additional sixty (60) days to finalize the consent decree. When approved by EPA and the United States Department of Justice, the consent decree will then be filed in federal court.

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EPA encourages Buffalo's participation by submitting a good faith proposal as defined below.

Good Faith Proposal

A good faith proposal to conduct or finance the remedial action is a written proposal that demonstrates Buffalo's qualifications and willingness to perform such work and includes the following elements:

1. A statement of willingness and financial ability by Buffalo to implement the requirements of the ROD and proposed consent decree;
2. A demonstration of Buffalo's technical capability to conduct the work, including the identification of the firm(s) Buffalo intends to retain to conduct all or portions of such work or a description of the process you will use to select the firm(s);
3. A statement of Buffalo's willingness and ability to reimburse EPA for costs incurred in overseeing the performance of the work as well as EPA's past costs (as described above);
4. Comments, if any, on the proposed consent decree and on the proposed administrative order (see below);
5. The name, address, telephone, and telefax number (if any) of the person(s) who will represent Buffalo in negotiations for a consent decree.

Consent Decree

Section 122(d)(1)(A) of CERCLA, 42 U.S.C. § 9622(d)(1)(A), requires that settlements for remedial action be entered in the appropriate federal district court in the form of a consent decree. Enclosed with this letter you will find a site-specific draft of EPA's model consent decree. This model provides boilerplate language for most provisions in order to standardize CERCLA consent decrees as much as possible and expedite CERCLA settlements. The United States will commence negotiations with a document containing language which, for the most part, is the same language the Government will expect in a final settlement because it reflects legal and procedural terms that have been found acceptable to both EPA and the regulated community in a large number of situations. Your decision to submit a good faith proposal to perform the work should be made with the understanding that the terms appearing in the draft consent decree are substantially the terms which EPA expects to appear in the final settlement.

Also enclosed find a proposed administrative consent order ("Order") which provides that Buffalo will commence remedial design

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activities upon the effective date of the Order. The Order need not be entered in Federal court and will enable Buffalo to commence design activities prior to entry of the remedial action consent decree. The Order will remain in effect until the consent decree is entered. EPA encourages Buffalo to enter into such an Order.

PRP Steering Committee

EPA encourages good-faith negotiations between Buffalo and EPA and between Buffalo and other potentially responsible parties ["PRPs"]. To facilitate these negotiations, EPA has enclosed a list of other PRPs to whom this notification has been sent. Inclusion on, or exclusion from, this list does not constitute a final determination by EPA concerning the liability of any party with respect to the Site.

EPA recommends that all PRPs meet to select a steering committee responsible for representing the group's interests. Establishing a manageable group is very important for successful negotiations with EPA.

PRP Response/EPA Contact Person

Buffalo is encouraged to contact EPA as soon as possible to state its willingness to participate in negotiations relating to the Site. Specifically, Buffalo has sixty (60) calendar days from receipt of this letter to provide EPA with a written proposal as described above. You may respond individually or through a steering committee if such a committee has been formed. If EPA does not receive a timely response, EPA will assume that Buffalo does not wish to negotiate a resolution of its liabilities in this matter and that Buffalo has declined any involvement in performing the response activities described above. In such event, EPA may, among other things, issue an administrative order directing Buffalo to perform the response action; seek to file an action in federal court to obtain a court order directing Buffalo to perform the response action; and/or perform such response action and seek reimbursement from liable parties.

If a proposal is submitted which EPA determines is not a good faith offer, you will be notified in writing of EPA's decision to end the negotiations moratorium and the reasons therefore. Buffalo may be liable for performing the response action pursuant to a unilateral administrative order or court order and/or reimbursing EPA for the cost of response actions performed by EPA.

Your response to this letter, including written proposals to perform the remedial action selected for the Site, should be sent to:

Melissa Whittington (3HW41)
U.S. Environmental Protection Agency

Melissa Whittington (3HW41)
U.S. Environmental Protection Agency
841 Chestnut Building
Philadelphia, PA 19107
(215) 597-1286

ADMINISTRATIVE RECORD

Pursuant to section 113(k) of CERCLA, 42 U.S.C. § 9613(k), EPA has established an administrative record which contains documents forming the basis of EPA's selection of response action for the Site. The administrative record file is available to the public for inspection and comment. You may wish to review the administrative record to assist you in responding to this letter, but your review should not delay such response. Copies of the file are located both at the EPA Region III office and:

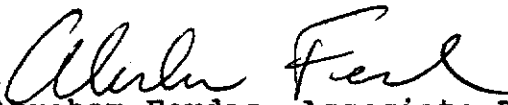
Buckingham County Library
Route #2, Box 41B
Dillwyn, Virginia 23936
(804) 983-3848

EPA will consider comments received, if any, after the close of the comment period in accordance with 40 C.F.R. § 300.825.

The factual and legal discussions contained in this letter are intended solely for notification and information purposes. They are not intended to be and cannot be relied upon as final EPA positions on any matter set forth herein.

If you or your attorney have any questions pertaining to this matter, please direct them to Jim Heenehan at (251) 597-8916.

Sincerely,


Abraham Ferdas, Associate Division
Director for Superfund Programs

cc: Jeffrey Howard (VDEQ)
Jill Fallon (DOI)
Mark Barash (DOI)
Kirsten Erickson (NOAA)
Jim Heenehan (EPA)

Enclosures: List of Recipients of this Letter
Draft Consent Decree
Record of Decision (Appendix A of Consent Decree)
Draft Administrative Order on Consent
for Remedial Design

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